

SENATE, No. 468

STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

Co-Sponsored by:

**Senators Turner, Weinberg, Allen, Bucco, Lance, Sarlo, Sweeney, Vitale,
T.Kean, Scutari, Bateman, Gordon and Pennacchio**

SYNOPSIS

“Historic Property Reinvestment Act”; provides credits against certain taxes for certain costs of rehabilitating historic properties.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 11/24/2009)

1 **AN ACT** providing credits against certain taxes for certain costs of
2 rehabilitating historic properties, and supplementing Title 13 of
3 the Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. This act shall be known and may be cited as the “Historic
9 Property Reinvestment Act.”

10
11 2. As used in this act:

12 “Cost of rehabilitation” means the consideration given, valued in
13 money, whether given in money or otherwise, for the materials and
14 services which constitute the rehabilitation.

15 “Director” means the Director of the Division of Taxation in the
16 Department of the Treasury.

17 “New Jersey S corporation” means the same as the term is
18 defined in section 12 of P.L.1993, c.173 (C.54A:5-10).

19 “Officer” means the State Historic Preservation Officer or the
20 official within the State designated by the Governor or by statute in
21 accordance with the provisions of the "National Historic
22 Preservation Act," Pub.L.89-665 (16 U.S.C. s.470 et seq.), to act as
23 liaison for the purpose of administering historic preservation
24 programs in the State.

25 “Partnership” means an entity classified as a partnership for
26 federal income tax purposes.

27 “Principal residence” means a one- or two-family homestead
28 actually and continually occupied by an individual as the
29 individual’s permanent residence, as distinguished from a vacation
30 home, property owned and rented or offered for rent by the
31 individual, and other secondary real property holdings, except that
32 the permanent residence of military personnel called to active duty
33 shall be considered to be a principal residence so long as the
34 individual maintains ownership of the residence for which the credit
35 is sought.

36 “Property” means a structure, including its site improvements
37 and landscape features, assessed as real property, and used for a
38 residential purpose, residential rental purpose, commercial purpose,
39 or any combination thereof.

40 “Qualified property” means a property located in the State of
41 New Jersey that is:

42 (a) (i) individually listed, or located in a district listed on the
43 National Register of Historic Places in accordance with the
44 "National Historic Preservation Act," Pub.L.89-665 (16 U.S.C.
45 s.470 et seq.), or on the New Jersey Register of Historic Places
46 pursuant to P.L.1970, c.268 (C.13:1B-15.128 et seq.), or
47 individually designated, or located in a district designated, by the

1 Pinelands Commission as a historic resource of significance to the
2 Pinelands in accordance with the Pinelands comprehensive
3 management plan adopted pursuant to the "Pinelands Protection
4 Act," P. L.1979, c.111 (C.13:18A-1 et seq.), and

5 (ii) if located within a district, certified by either the officer or
6 the Pinelands Commission, as appropriate, as contributing to the
7 historic significance of the district; or

8 (b) (i) individually identified or registered, or located in a
9 district composed of properties identified or registered, for
10 protection as significant historic resources in accordance with
11 criteria established by a municipality in which the property or
12 district is located if the criteria for identification or registration has
13 been approved by the officer as suitable for substantially achieving
14 the purpose of preserving and rehabilitating buildings of historic
15 significance within the jurisdiction of the municipality, and

16 (ii) if located within a district, certified by the officer as
17 contributing to the historic significance of the district.

18 "Rehabilitation" means the repair or reconstruction of the
19 exterior or interior of a qualified property to make an efficient
20 contemporary use possible while preserving the portions or features
21 of the property that have significant historical, architectural, and
22 cultural values.

23 "Rehabilitation of the interior of the qualified property" means
24 the repair or reconstruction of the structural or substrate
25 components and electrical, plumbing, and heating components
26 within the interior of a qualified property.

27 "Selected rehabilitation period" means a period of 24 months the
28 beginning of such period is chosen by the business entity during
29 which, or parts of which, a rehabilitation is occurring or a period of
30 60 months if a rehabilitation is reasonably expected to be completed
31 in distinct phases set forth in written architectural plans and
32 specifications completed before or during the physical work on the
33 rehabilitation.

34
35 3. a. An individual, upon successful application to the officer,
36 shall be allowed a credit against the tax otherwise due pursuant to
37 N.J.S.54A:1-1 et seq. for 25 percent of the cost of rehabilitation
38 paid by the individual for the rehabilitation of a qualified property
39 that the individual owns and occupies as the individual's principal
40 residence for a period of twelve consecutive months following the
41 completion of the rehabilitation, provided that (1) the cost of
42 rehabilitation is in an amount not less than 50 percent of the
43 equalized assessed value of the structure for local real estate tax
44 purposes as indicated on the most recent property tax bill for the
45 qualified property prior to the start of the rehabilitation, and that (2)
46 for the purpose of calculating the amount of the total credit, no

1 more than 60 percent of the total cost of rehabilitation shall be
2 attributable to interior rehabilitation.

3 If more than one individual own a qualified property and at least
4 one of the owners occupies the qualified property as the owner's
5 principal residence for a period of twelve consecutive months
6 following the completion of the rehabilitation, each owner shall be
7 allowed a credit against the tax otherwise due pursuant to
8 N.J.S.54A:1-1 et seq. for 25 percent of the cost of rehabilitation
9 paid by that owner for the rehabilitation of a qualified property,
10 provided that (1) the total cost of rehabilitation of the qualified
11 property borne by all owners is in an amount not less than 50
12 percent of the equalized assessed value of the structure for local real
13 estate tax purposes as indicated on the most recent property tax bill
14 for the qualified property prior to the start of the rehabilitation, and
15 that (2) for the purpose of calculating the amount of the total credit,
16 no more than 60 percent of the total cost of rehabilitation of the
17 qualified property borne by all owners shall be attributable to
18 interior rehabilitation.

19 b. The amount of the credit allowable under this section shall be
20 applied against the tax otherwise due pursuant to N.J.S.54A:1-1 et
21 seq. during the taxable year in which the officer issues the tax credit
22 certification to be attached by the individual to the individual's tax
23 return. The director shall determine the order in which the credit
24 allowed under this section and any other credit permitted by law
25 shall be applied against the individual's amount of tax due. If the
26 amount of the credit exceeds the individual's tax liability, that
27 amount of excess shall not be considered an overpayment for the
28 purposes of N.J.S.54A:9-7, but instead may be carried over, if
29 necessary, to the four taxable years following the taxable year for
30 which the credit was allowed.

31 c. The cumulative amount of credit granted under this section
32 for the cost of rehabilitation of a specific qualified property shall
33 not exceed \$25,000 within any ten-year period.

34

35 4. a. A business entity, upon successful application to the
36 officer, shall be allowed a credit against the tax otherwise due
37 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), the tax
38 imposed on insurers generally, pursuant to P.L.1945, c.132
39 (C.54:18A-1 et. seq.), or the tax imposed on marine insurance
40 companies pursuant to R.S.54:16-1 et. seq., for 25 percent of the
41 cost of rehabilitation paid by the business entity for the
42 rehabilitation of a qualified property, if the cost of rehabilitation
43 during a business entity's selected rehabilitation period is not less
44 than the greater of (1) the adjusted basis of the structure of the
45 qualified property used for federal income tax purposes as of the
46 beginning of the business entity's selected rehabilitation period, or
47 (2) \$5,000. The amount of the credit claimed in any accounting or

1 privilege period shall not reduce the amount of the tax liability to
2 less than the statutory minimum provided in subsection (e) of
3 section 5 of P.L.1945, c.162 (C.54:10A-5).

4 b. The amount of credit granted, or recognized through a tax
5 credit transfer certificate acquired pursuant to section 5 of this act,
6 to a partnership, limited liability company, New Jersey S
7 corporation, multiple owners, or qualifying long-term leaseholders
8 of the property, shall be passed through to the partners, members,
9 shareholders, or owners respectively, either in proportion to their
10 ownership interest in the entity or as the partners, members,
11 shareholders, or owners mutually agree as provided in an executed
12 document detailing the alternate distribution method.

13 c. A business entity may claim a credit under this section during
14 the accounting or privilege period (1) in which it makes the final
15 payment for the cost of the rehabilitation if the business entity has
16 chosen a selected rehabilitation period of 24 months, or (2) in which
17 a distinct project phase of the rehabilitation is completed if the
18 business entity has chosen a selected rehabilitation period of 60
19 months. The credit may be claimed against any tax liability
20 otherwise due after any other credits permitted pursuant to law have
21 been applied. The amount of credit claimed in an accounting or
22 privilege period that cannot be applied for that accounting or
23 privilege period due to limitations in this section may be carried
24 over, if necessary, to the nine accounting or privilege periods
25 following the accounting or privilege period for which the credit
26 was allowed.

27

28 5. a. The officer shall, in cooperation with the director,
29 establish and administer a gross income tax credit transfer
30 certificate program, a corporation business tax credit transfer
31 certificate program, and an insurance premiums tax credit transfer
32 certificate program to enable individuals and business entities with
33 unused, otherwise allowable amounts of tax credits issued pursuant
34 to this act to exchange these credits, in whole or in part, for private
35 financial assistance prior to the expiration of the tax credit.

36 A certificate issued by the officer shall include a statement
37 waiving the rights of the individual to whom or the business entity
38 to which the tax credit has been granted to claim that amount of the
39 credit against any tax liability.

40 b. An individual or business entity holding an unused, otherwise
41 allowable tax credit issued pursuant to this act may apply to the
42 officer for a tax credit transfer certificate pursuant to subsection a.
43 of this section. Upon receipt thereof, the individual or the business
44 entity may sell or assign, in full or in part, the tax credit transfer
45 certificate to another taxpayer in exchange for private financial
46 assistance to be provided by the purchaser or assignee of the tax
47 credit transfer certificate to the seller thereof. The purchaser or

1 assignee of the tax credit transfer certificate may apply the face
2 value of the tax credit transfer certificate acquired against the
3 purchaser's or assignee's applicable tax liability by claiming the tax
4 credit on the purchaser's or assignee's gross income tax,
5 corporation business tax or insurance premiums tax return with the
6 corresponding tax credit transfer certificate accompanying the tax
7 return.

8 c. The purchaser or assignee of a tax credit transfer certificate,
9 together with the tax credit transferor, shall be liable for the tax
10 credit amount to be recaptured if section 7 of this act applies.

11
12 6. a. The officer shall, in consultation with the director,
13 promulgate rules and regulations in accordance with the
14 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
15 seq.), as the officer deems necessary to administer the provisions of
16 this act, including but not limited to rules establishing
17 administrative fees to implement the provisions of this act and the
18 setting of an annual application submission date.

19 b. For every tax credit allowed pursuant to sections 3 and 4 of
20 this act, the officer shall certify to the director the total cost of
21 rehabilitation; that the property meets the definition of qualified
22 property; that the rehabilitation has been completed in substantial
23 compliance with the requirements of the Secretary of the Interior's
24 Standards for Rehabilitation pursuant to section 67.7 of title 36,
25 Code of Federal Regulations; and, if applicable, that no more than
26 60 percent of the cost of rehabilitation which will be used to
27 calculate the credit is for the rehabilitation of the interior of the
28 qualified property. The individual or business entity shall attach the
29 certification to the tax return on which the individual or business
30 entity claims the credit.

31 c. The total amount of credits approved by the officer pursuant
32 to this act shall not exceed \$15,000,000 in fiscal year 2008,
33 \$25,000,000 in fiscal year 2009, \$40,000,000 in fiscal year 2010,
34 and \$50,000,000 in fiscal year 2011 and thereafter.

35 The officer shall devise criteria for allocating tax credit amounts
36 if the approved amounts combined exceed the total amount in fiscal
37 years 2008 through 2011, including rules that allocate over multiple
38 fiscal years a single credit amount granted in excess of \$2,000,000.
39 The criteria shall include a project's historic importance, positive
40 impact on the surrounding neighborhood, economic sustainability,
41 geographic diversity, and consistency with Statewide growth and
42 development policies and plans.

43 d. In any fiscal year, 33 percent of the total monetary amount of
44 tax credits approved pursuant to this act shall be granted for the
45 rehabilitation of qualified properties pursuant to section 3 of this
46 act, and 66 percent of the total monetary amount of tax credits
47 approved pursuant to this act shall be granted for the rehabilitation

1 of qualified properties pursuant to section 4 of this act. Any
2 unallocated or recaptured portion of the tax credits during any year
3 pursuant to section 3 or 4 of this act, may be carried over and
4 reallocated in succeeding years.

5
6 7. a. The officer, in collaboration with the director, shall adopt
7 rules for the recapture of an entire or partial tax credit amount
8 allowed under this act. The rules shall require the officer to notify
9 the director of the recapture of an entire or partial tax credit amount.
10 The recapture of funds shall be subject to the State Uniform Tax
11 Procedure Law, R.S.54:48-1 et seq. and recaptured funds shall be
12 deposited in the General Fund of the State.

13 b. If, before the end of five full years after the completion of the
14 rehabilitation of the qualified property, an individual who or a
15 business entity that has been allowed a tax credit pursuant to section
16 3 or 4 of this act either disposes of a qualified property or modifies
17 the architectural components of the rehabilitated qualified property
18 so that it ceases to meet the requirements for the rehabilitation of a
19 qualified property as defined in this act, then the tax liability of the
20 individual or business entity for that taxable year or accounting or
21 privilege period shall be increased by the following percentage of
22 that portion of the original tax credit amount that the officer now
23 disallows:

24 (1) 100 percent of the disallowed tax credit amount if the action
25 causing the disallowance occurs within one full year after the
26 rehabilitation's completion;

27 (2) 80 percent of the disallowed tax credit amount if the action
28 causing the disallowance occurs between the first and second full
29 year after the rehabilitation's completion;

30 (3) 60 percent of the disallowed tax credit amount if the action
31 causing the disallowance occurs between the second and third full
32 year after the rehabilitation's completion;

33 (4) 40 percent of the disallowed tax credit amount if the action
34 causing the disallowance occurs between the third and fourth full
35 year after the rehabilitation's completion; and

36 (5) 20 percent of the disallowed tax credit amount if the action
37 causing the disallowance occurs between the fourth and fifth full
38 year after the rehabilitation's completion.

39 If the individual or business entity whose credit amount is
40 disallowed has transferred the credit amount to another individual
41 or business entity by means of a tax credit transfer certificate issued
42 pursuant to section 5 of this act, then the purchaser or assignee of
43 the tax credit transfer certificate, together with the tax credit
44 transferor, shall be held liable for the credit amount to be
45 recaptured.

46 c. In the case of a business entity that has chosen a selected
47 rehabilitation period of 60 months, if the architectural plans change

1 in the course of the phased rehabilitation project so that the
2 rehabilitation of the qualified property would, upon the
3 rehabilitation's completion, no longer qualify for a tax credit
4 pursuant to the requirements of this act, then the business entity's
5 tax liability for that accounting or privilege period shall be
6 increased by the full amount of the tax credit that the officer had
7 previously granted upon the completion of a distinct prior project
8 phase that the business entity has applied against its tax liability in a
9 prior accounting or privilege period. Any portion of the tax credit
10 that the business entity has not yet used at the time of the
11 disallowance by the officer shall be deemed void. If the business
12 entity whose credit amount is disallowed has transferred the credit
13 amount to another individual or business entity by means of a tax
14 credit transfer certificate issued pursuant to section 5 of this act,
15 then the purchaser or assignee of the tax credit transfer certificate,
16 together with the tax credit transferor, shall be held liable for the
17 credit amount to be recaptured.

18
19 8. On or before December 31, 2011, the officer, in consultation
20 with the director, shall prepare and submit a written report
21 regarding the number and total monetary amount of tax credits
22 granted for the rehabilitation of qualified properties pursuant to
23 sections 3 and 4 of this act, the geographical distribution of the
24 credits granted, a summary of the tax credit transfer program
25 established pursuant to section 5 of this act, an evaluation of
26 the effectiveness of the tax credits provided pursuant to this
27 act in promoting the rehabilitation of historic properties,
28 recommendations for administrative or legislative changes to
29 increase the effectiveness of the program, and any other information
30 that the officer or the director may deem useful or appropriate. This
31 report shall be submitted to the Governor and, pursuant to section 2
32 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

33
34 9. This act shall take effect immediately and section 3 shall
35 apply to taxable years beginning on or after January 1 next
36 following the date of enactment of this act, and section 4 shall apply
37 to accounting or privilege periods beginning on or after July 1 next
38 following the date of enactment of this act.

41 STATEMENT

42
43 This bill, the "Historic Property Reinvestment Act," establishes
44 two State tax credits and a tax credit certificate transfer program for
45 25% of taxpayer's costs of rehabilitating qualified historic
46 properties in this State: one under the New Jersey gross income tax
47 for homeowners, which is capped at a total credit amount of
48 \$25,000 per property during a ten-year period; and one for

1 businesses under the corporation business tax, insurance premiums
2 tax or marine insurance premiums tax, whose credit amount per
3 property is not capped. The bill provides that a taxpayer may sell
4 any portion of the tax credit by means of a tax credit transfer
5 certificate program to be established by the State Historic
6 Preservation Officer (SHPO) and the Director of the Division of
7 Taxation in the Department of the Treasury.

8 A qualified property being rehabilitated must be:

9 (1) (a) Individually listed (or located in a district listed) on the
10 National Register of Historic Places or the New Jersey Register of
11 Historic Places, or designated (or located in a district designated) by
12 the Pinelands Commission as an historic resource of significance to
13 the Pinelands; and (b) if located within a district, certified by either
14 the SHPO or the Pinelands Commission as contributing to the
15 district's historic significance; or

16 (2) (a) Individually identified (or located in a district composed
17 of properties identified) for protection as a significant resource in
18 accordance with criteria established by the appropriate municipality
19 and approved by the SHPO; and (b) if located within a district,
20 certified by the SHPO as contributing to the district's historic
21 significance.

22 A homeowner seeking a tax credit must spend no more than 60
23 percent of the cost of rehabilitation on the rehabilitation of the
24 interior and must own and occupy the qualified property as the
25 homeowner's principal residence for twelve consecutive months
26 following the completion of the rehabilitation. Rehabilitation
27 expenditures must be at least 50 percent of the equalized assessed
28 value of the structure for local real estate tax purposes as indicated
29 on the most recent property tax bill for the property prior to the start
30 of the rehabilitation.

31 A business seeking the tax credit must, during a selected 24-
32 month or 60-month rehabilitation period, have eligible
33 rehabilitation expenditures of the greater of \$5,000 or the adjusted
34 basis of the structure of the qualified property used for federal
35 income tax purposes at the start of the rehabilitation period.

36 The bill provides that the amount of tax credits approved cannot
37 exceed \$15 million in fiscal year 2008, \$25 million in fiscal year
38 2009, \$40 million in fiscal year 2010, and \$50 million in fiscal year
39 2011 and thereafter. The bill will apply to tax years beginning on
40 and after enactment. Sums unallocated in a fiscal year may be
41 carried over to the subsequent year, thus adding to the designated
42 cap amounts. The bill provides that in any fiscal year in which tax
43 credits are issued, 33 percent of the total monetary amount of tax
44 credits approved shall be granted for the rehabilitation of qualified
45 properties by homeowners. The bill also provides for the adoption
46 of rules for the recapture of tax credit amounts if a qualified
47 property is sold, or modified in a manner that disqualifies the
48 rehabilitation, within 5 years after completion of the rehabilitation.

1 The bill also requires that the SHPO, in consultation with the
2 director, prepare and submit a written report to the Governor and
3 the Legislature before 2012 detailing the number and total monetary
4 amount of tax credits granted for the rehabilitation of qualified
5 properties, the geographical distribution of the credits granted, a
6 summary of the tax credit transfer program, an evaluation of the
7 effectiveness of the tax credits in promoting the rehabilitation of
8 historic properties, recommendations for administrative or
9 legislative changes to increase the effectiveness of the program, and
10 any other information that the officer or the director may deem
11 useful or appropriate.